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EXTRACC
OF THE
MINUTES OF COUNCIL,

of the 20th September, 1798.

ON THE
WASTE LANDS of the CROWN,

DURING A CONTINUATION,

OF THE
EXTRACC.

of the 11th of June last.

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QUEBEC:

PRINTED AT THE NEW PRINTING-OFFICE
Palace Street, 1798

THE
PROGRESSIVE

MINT TO

MINUTES OF CONCERN

RECEIVED IN THE SECRETARY'S OFFICE

ON THE

INSTANT TIMES AT THE CROWN

DURING A CONTINUATION

AT THE

CHARGE

RECORDED BY

JOHN W. HARRIS
TREASURER

RECEIVED AND TAILED
BY THE

E X T R A C T

FROM THE

MINUTES OF COUNCIL,

*Respecting the Waste Lands of the Crown of the
20th. September, 1798.*

Thursday, 20th. September, 1798.

At the Council Chamber in the Castle of St. Lewis.

P R E S E N T.

His Excellency ROBERT PRESCOTT, Esq. Governor,
and

The Honorable W, OSGOODE, Chief Justice,
The Lord Bishop, {¹ } François Baby, &
Hugh Finlay, {² } John Young,

THE entry of the Minutes of the last Meeting of
the Board (9th. of July last) being read, His Ex-
cellency requested that it might be remembered, that
the order for recording the Report of the Committee
of the 20th of June (relative to the New Regulations
then lately received through His Majesty's Secretary

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of State, in conformity to the instruction under His Majesty's Royal Sign Manual bearing date at St. James's, the 15th day of August, 1797, communicated to the Board on the 11th of June last) was not voluntary on his part; but, on the contrary, that the draft of the Minute which His Excellency on that day brought forward stood thus, "His Excellency laid " before the Board a Report of a Committee of the " whole Council dated the 20th of June last upon the " reference of the 11th of the same Month respecting the Waste Lands of the Crown, which was read " and ordered to be filed;" and that it was purely in compliance with a request of the Board that His Excellency had permitted the word "*filed*" to be struck out, and the word "*entered*" to be substituted in its place.

His Excellency could not but feel some degree of regret, at the circumstance of that request having been made, and complied with: His regret, His Excellency said, arose from this consideration; the Records of the Proceedings relative to the granting of the Waste Lands of the Crown, by an old standing order, perfectly conformable to His Majesty's Royal Instructions, and therefore to be held in all cases inviolably sacred,

facted, were, what they undoubtedly ought to be, open for the information and satisfaction of all persons concerned therein.

It appeared to him, His Excellency observed, that when, on any subject, there might happen to be a momentary difference of opinion between the Governor and his Council, it would be much better that their Reasonings should be put, at least for a time, on *special Files*, to be open only to the Governor and Members of the Council (or to such other particular Individuals as might obtain Special Permission from the Governor or from some Member of the Council for that purpose) to the end that the same might be reconsidered, whereby an *Union* of opinion might take place previous to the recording, than to record at once the *different Opinions* so entertained. For although His Excellency would in such cases always endeavour on his part, to consider the subject so fully before-hand, as not to be afraid of submitting his opinion thereon to the Judgment of the whole World; and although he would always be ready on his part to correct by a *future* document any mistake (all men being at times liable to error) that he might at any time discover in a *prior* one; yet, (admitting likewise that the same dispositions should equally prevail in

the breasts of all the Members of the Council, His Excellency could see no use in entering upon Record, opinions that were not coincident; at least, until they should be reconsidered.

The reasons His Excellency said, which induced him to prefer the putting of such different opinions in all future cases upon *special Files*, was this, he could see no good reason why any momentary difference of opinion between the Governor, and the Council, should be open to the Public; which must be the case in regard to the Land-business, if entered upon Record: for, His Excellency said, he could on no Account whatever depart so far from the Orders of his Royal Master, as to allow any of His Majesty's Instructions relative to the granting of the Waste Lands of the Crown, or any of the Proceedings had thereon, so far as the same shall be entered on Record or Placed of Record upon the *Ordinary Files*, to be kept from the Parties concerned.

His Majesty's Royal Instructions, in Order to avoid all Causes of Complaint with respect to Partiality, strictly enjoin (in addition to any Publication that might be made by "Proclamation or otherwise,") that all Instructions which His Majesty has given, or may

hereafter

hereafter give " relative to the passing grants of Lands
 " in conformity to the Act passed in the thirty first year
 " of His Reign, be entered upon Record, for the In-
 " formation and satisfaction of all parties whatever
 " that may be concerned therein."

The Instruction relative to causing " a publication
 to be made by Proclamation or otherwise," gives in some
 degree a *discretionary* Power, to be exercised by those
 who might be entrusted with the administration of
 the Provincial Government : But His Majesty's Royal
 commands, that His Instructions shall be entered upon
 record, and that all Parties concerned shall have free
 access to those Records, are in no degree *discretionary*
 but in every respect positive.

Were the Parties to have free access to the Records
 for the purpose merely of knowing His Majesty's
 Royal Instructions, considered by themselves, separate
 and distinct from the Proceedings had thereon, such
 access could be of no possible avail to them. The
 Instructions therefore, together likewise with the Pro-
 ceedings thereon, in which the Interests of Individuals
 may be concerned, are necessarily included in His Ma-
 jesty's Royal Commands; and His Excellency can on

No condition (at least on no condition short of an express Permission from His Royal Master) allow His Majesty's Commands to be disobeyed.

His Excellency then informed the Board that he had received a Report of the Committee of the whole Council dated the 9th of August, and delivered on the 16th of the same month, upon the Reference of the 9th of July last.—On perusing the Report, His Excellency said, he found that certain parts thereof contained opinions which he could not exactly coincide with; and he had therefore made certain Remarks in writing, relative to the points which appeared to him in a different light from that in which they had appeared to the Committee; which, together with the Report, he was about to lay before the Board.

As His Excellency had not till now, explained his reasons with respect to the placing of any Documents on *Special Files*; it was his intention, in the present instance, to make such Order as the Board might think proper to advise, whether to put the present Report together with his remarks thereon upon a *Special File* as above defined or to enter them upon Record: And if the Board should not be prepared to favour him with their advice therein, he should Order

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the Report, and his Remarks, to be put on such *Special File* for the present, and not recorded until further Orders may be given therein by the Governor, after the expiration of ten days from this time.

His Excellency then laid the Report, together with the Remarks he had made thereon in writing, before the Board; which, being read and considered, The Chief Justice, in the name and on the behalf of the Members present, advised that the same be entered. And His Excellency having given his word, in manner above-mentioned, ordered the same to be entered of Record accordingly.

THE REPORT.

[N. B. The different paragraphs are numbered 1, 2, 3, &c. for the purpose of enabling the Reader to refer the more easily to the correspondent parts of the Governor's remarks, which are numbered in the same manner.]

To His Excellency ROBERT PRESCOTT, Esquire, Captain General and Governor in Chief of the Province of Lower Canada, &c. &c. &c.

REPORT of a Committee of the whole Council, Present, The Chief Justice, and seven other Members of the Council on your Excellency's Order of Reference of the 9th ultimo, "to consider

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" consider of the most proper means of communicating to the Parties concerned, His Majesty's gracious Intentions contained in the Regulations laid before the Board on the 11th ultimo," respecting the Waste Lands of the Crown.

May it Please your Excellency,

I. In obedience to your Excellency's Commands, the Committee have taken into serious consideration your Excellency's Order of Reference of the 9th July last, "to consider of the most proper means of communicating to the Parties concerned, His Majesty's gracious intentions contained in the Regulations laid before the Board on the 11th June last," and after tendering their most thankful acknowledgements for the solicitude manifested by your Excellency to explain the import of the Regulations communicated in the Order of Reference of the 11th June last, by entering into a detail of the motives that gave rise to them; the Committee will avail themselves of the authority of such example, and with all deference lay before your Excellency a more extensive view of the reasons that induced them to make the Report of the 20th June last, as well as of the Report which they now submit to your Excellency's wisdom, which would

would have been sooner presented but for their continued attendance at the Court of Appeals, and the difficulties they have experienced in endeavouring to obtain necessary documents.

2. With every disposition to profit by your Excellency's superior Judgment they beg to observe before they enter upon the Subject, that if in delivering their sentiments the Committee may appear to differ in opinion from others, they hope that such variance may not subject them to the imputation of casting censure upon any one; because if difference of opinion do necessarily imply censure, benevolent men will have no Judgment to exercise; and if discussion must produce discord, a deliberative Council is ill calculated to answer the ends of its institution.

3. Another observation the Committee will take the liberty of premising, which they hope will tend to relieve that laudable anxiety so feelingly expressed by your Excellency in those cases of compassion which are mentioned in the Order of Reference; the Report already made by the Committee conduces to this matter of opinion, that it is not expedient for the present to make public the Regulations communicated to them, and it neither follows as a necessary or natural

consequence, that therefore Government is not bound to fulfil every engagement which in equity they may be said to have contracted with the Public. On the contrary, the Committee trust that your Excellency will meet with a zealous co-operation on their part, to keep His Majesty's sacred word inviolate, and to perform whatever in justice or honor may be required of the Executive Government. They are under no apprehension that the Faith of Government will not be preserved, tho' they are fearful that its liberality may be abused; and therefore they were diffident of recommending Public notice to be given of the Regulations.

4. The Committee would hold themselves to be deficient in the observance of respectful usages, were they to omit expressing their acknowledgements for the Apology your Excellency is pleased to frame for their supposed inadvertance in the present business: Had the obligation proceeded from a less exalted quarter, they might have qualified their gratitude by some observations in their own justification, from which they will for the present abstain.

5. With regard to the Extract cited by your Excellency, the Committee are ready to admit that it appears to countenance

countenance the procedure mentioned in the Order of Reference : But with regard to that document, it has long since been considered as nullity, both with respect to the Object of its immediate tendency, and also as constituting an Authority to justify the proceeding alluded to. The object of its immediate tendency was to obtain a supply of Surveyors for the New Townships at the joint expence of the Crown and the Applicants ; this division of payment was for some time deemed to be an authorized measure; but it being wisely considered by His Majesty's Ministers, that it was sufficient for the Crown to extend its bounty, without incurring an additional charge on account of its liberality; the Governor received in consequence, authentic information that the Crown would be at no further expence on that object. From this period the document in question has been looked upon as a dead letter: as an authority to justify the proceeding alluded to it is null, because it was made under the prevalence of a temporary mistake, and is in direct contravention of His Majesty's Instructions.

6. To explain more fully the nature of this temporary mistake, the Committee with your Excellency's permission, will enter into a brief narrative of the proceedings of the Land-granting Department, by which

the delay that has already obtained may be partly accounted for; and the position asserted by the Committee in their former Report, that they have uniformly endeavoured to repel actual settlement before a compliance with the Previous formalities, will be established by the most authentic proofs.

It appears by an Entry in the Council Book marked (C) of the 20th February 1792, that a Land Committee was on that day named in Council.

On the 19th March, 1792, a Report of the Committee of the whole Council upon certain doubts suggested by the Land Committee is entered. In this Report after observing "that an abundant population of these Countries seems to be the main object of the Royal instructions," the Chairman of the Committee proposed a plan of the ordinary progress of the business of the Land Office Department as follows :

Ist. A Petition to the Governor for the vacancy desired under a description to be accurately ascertained by a future Survey.

IID. The Reference of it to a Committee of the Council for their Report.

III^d. Judgment in Council thereon; and when for the Grant, *an Order for issuing a Warrant to the Surveyor General*, for the Return of a Survey agreeable to the Royal Instructions: this Warrant to be under the Governor's Hand and Seal at Arms.

IVth. Then the adjustment in Council of the shares of each of the Patentees.

Vth. A Transmission of the List by the Clerk of the Council to the Commissioners for taking their qualifications under Standing Instructions for that purpose, within the time limited by an Act or Minute of Council.

VIth. A Report from the Commissioners to the Council-Office; whence those papers are to go into the hands of the Attorney General for his Report to the Secretary's Office of the Draft of a Patent.

VIIth. The Patent to be there engrossed and issued under the Great Seal upon payment of the Fees due to all the Officers concerned, and to be accordingly distributed by the Secretary, who is to record the patent, and preserve all the detached papers in due files.

After which it is recorded "that the Committee concur

" cur in the mode of proceeding aforementioned fuges,
" ted by the Chair," and this Report was finally con-
firmed in Council.

From some cause which it were useless now to en-
quire into, it so happened, that the progress of business
proposed by the Chairman of that day, directly in-
verted the course commanded by His Majesty's In-
structions; for it appears that by the progress pro-
posed, the Order for issuing a Warrant for the Return of
a Survey, precedes the Transmission of the List for
taking the qualifications; whereas by His Majesty's
Royal Instructions (No. 35.) it is expressly directed
that " in order to prevent any persons disaffected
" to Us and our Government, from becoming Set-
" tlers in our said Province of Lower Canada, it is our
" will and Pleasure that no warrants for Surveying
" Lands be granted by you, or the Lieutenant Governor,
" or the Person administering the Government for the
" time being, unless the Person or Persons applying,
" do at the time of making such application, besides
" taking the usual Oaths directed by Law, also make
" and subscribe the following declaration in your or
" his presence, or in the presence of such Person or
" Persons as shall by you or him be appointed." &c.

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7. In consequence of the mode thus adopted, upwards of 150 Warrants of Survey for Townships were issued even before any Commissioners were appointed to administer the Solemnities previously required by the said Instructions; but notwithstanding the number of Warrants thus issued, the business of Settlement went on very tardily, even at the time when it was understood that Government was to discharge half the expence of running the outlines; which delay, as appears by Reports from the Land Committee, and the Surveyor General's Office, arose from the uncertainty of the Settlers with respect to three material points.—*First* with regard to the Position of the Reserves intended for the benefit of the Crown, and the support of the Protestant Clergy; *Secondly*, the amount of the fees to be paid on obtaining the Patent; and *Thirdly*, the quantity of Land which the Petitioners and their Associates may expect.

8. A considerable portion of time elapsed before these points were settled; however, towards the close of the year 1794, the objects of the *reserves* and *fees* being brought forward by His Excellency LORD DORCHESTER, were ascertained and determined by His Lordship in Council; and afterwards were made known to

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the Public. At this period the former Chairman, of the Committee of the whole Council [Wm. SMITH, Esq. Chief Justice] was no more; and within a short time afterwards every Member of the present Council had a seat at the Board. The business of Land-granting began seriously to be resumed, and Commissioners for giving effect to His Majesty's Instructions were duly appointed. Upon a review of former Proceedings, the Error that had heretofore occurred was noticed, and immediate course was taken to repair it; and this, in the opinion of the Committee, is the true period at which an effective commencement of the Land-granting Department ought to be fixed; not only because the former proceedings being contrary to the express Instructions of Government (altho' Government with becoming dignity did not mean to vacate them) were null; but also, because the essential powers to put the business in motion were not till this juncture combined, or even created. From this time, the Executive Council, being aware of the mischiefs arising from actual Settlement without a Compliance with the previous formalities, have uniformly endeavoured to inhibit it; and have employed themselves to carry His Majesty's Instructions into execution, with respect to past Proceedings, if

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not in the order in which they had been directed, at least to their full extent; and, with respect to future Proceedings, duly to observe the Order prescribed by His Majesty, to prevent actual settlement till all previous requisites should be faithfully observed; and as evidence that such was both the resolve and practice, they beg leave to refer your Excellency to a Public Notice bearing date the 10th of October, 1794, recorded in the Council Book (C.) page 367, in which the distinction before alluded to is plainly made, namely that those who had obtained Warrants of Survey should comply with the directions therein stated prior to the issuing of any Grant of Land; and that they who meant to apply for any such Warrant, should also conform thereto; and this was published with a direct view of preventing the unauthorized settlement of any person in future; as no warrant of Survey would be issued, or has since been issued, without a previous compliance with such directions; and with the view to quicken the attention of those who having taken possession under their Warrants of Survey, were contented with their occupancy, and did not seem disposed to give themselves any further trouble, Public Notice was given, from the Executive Council-Office, on the 17th January, 1795, "to all persons who have ob-

" tained Warrants of Survey, or orders of His Ex-
 " cellency the Governor in Council for any part of
 " His Majesty's ungranted Lands in this Province, to
 " comply with the requirements contained in the said
 " Advertilements on or before the first day of August
 " next, and that in default of such compliance, they
 " will be considered by Government to have relin-
 " quished their pretensions under any order of Coun-
 " cil or Warrant of Survey that may have been di-
 " rected in consequence."

9. At the expiration of this period it appeared by the Schedules annexed, and the Returns of the Commissioners, that of upwards of 300 Leaders, and ten thousand proposed Associates, the number of those who had complied with the directions, did not exceed 550. so that the number of Persons who had duly qualified themselves, bore a very small proportion not only to the Amount of the applicants, but even to those who were supposed to have made actual Settlement on the land; who, having neglected to comply with the terms of the notice, were clearly subject to the penalty thereby announced. After these forfeitures had accrued, it was generally understood that in addition to those persons who had satisfied themselves with a bare

Warrant

Warrant of Survey of the outlines of a Township, a number of others, under various pretexts, some from having purchased pretensions, and others because it suited their Interest, had made actual settlement in various quarters; and many upon Lands reserved for the support of a Protestant Clergy, and the future disposition of the Crown. To check this propensity, it was thought expedient to issue a Proclamation as mentioned in the former Report; but this Proclamation never was intended by the Executive Council, nor could upon any principle of sound construction, be supposed to affect the Parties alluded to in your Excellency's Order of Reference, who might have an equitable claim upon Government; but those only who having forfeited their claim, or having no claim at all, had made actual Settlement without sufficient authority.

These successive measures would be alone sufficient to evince the anxiety of the Executive Council to resist actual Settlement without authority, from the first moment that the necessary powers to carry the granting of Lands into effect, were in existence; but the most convincing proof of their disposition, as well as of the influence of that disposition upon the Public

opinion, arises from the conduct and forbearance of a numerous body of Applicants of approved Loyalty, who, possessed of that operative Instrument, a Warrant of Survey, have, from a principle of decency, refrained from taking possession. This is a fact which added to their Public notices, affords, in the opinion of the Committee, the strongest Proof of the position they have asserted.

10. For the purpose of applying the effect of the Regulations, the Committee will divide the Applicants who have made actual Settlement, into two classes, without attending to the numerous persons who have so done because it suited their Interest.

FIRST. They who come strictly under the description set forth in the second Regulation, and have also obeyed the notices issued by the Executive Council.

SECONDLY. They who come under the said description but not obeyed the notice issued by the Executive Council.

Respecting those of the first Class, the Committee never entertained a doubt but they had an equitable claim, which the Committee have ever been ready to confirm.

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Respecting the second class, the number of which it will not be easy to ascertain, because the Returns relate to the Obedient only, but which class (if Judgment is to be formed by common Report, or by inference drawn from the limited number of those who appear by the Returns of the Commissioners to have obeyed) must be considerable; the Committee are under great difficulty to know whether they are to partake or be excluded from the benefit of the Regulations.

11. With regard to the explanation given by your Excellency concerning the Reservations, the Committee are ready to admit that it may apply to the small number of Townships alluded to, but the Question with the Committee is, whether it applies to the remaining Townships; for tis to be observed that the directions are not partial but general.

12. The Committee have paid due attention to your Excellency's Remarks on the purchase of pretensions; and with a View of ascertaining how far such pretensions may extend, they thought it expedient to call for the documents stated in their Journal, from the respective Officers therein-mentioned; but with these

these materials they have not been duly supplied; and in the retardment they have met with, the Committee are concerned to find, such familiar use has been made of your Excellency's name, that you are represented as having condescended to comment on the purposes to which such documents may apply: under these circumstances therefore, the Committee are compelled to proceed upon less compleat Information than they could have wished, and such as by personal search of the Records they can obtain.

13. Your Excellency will perceive from a Report of the Surveyor General of the 19th August, 1790, entered in the Council Book of State Affairs, (Letter H. page 8.) that the waste and ungranted Lands of the Crown lying on the South side of the River St. Lawrence, are stated to be above 20,700,000 acres. By computing the Returns, as appears by the Schedule annexed to this Report, it appears that upwards of 300 Leaders with nearly 11,000 Professed Associates may have pretensions under Warrants of Survey, to the most desirable Portions of this extensive Tract; the value of which, were it calculated at the present, or at no very distant day, by estimates already given in upon Oath in His Majesty's Courts of Justice, would amount to upwards

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upwards of two Millions sterling: it may therefore be readily concluded what exertions are likely to be made to establish pretensions to this extensive boon, when founded on the specious plea of delay on the part of Government; and should the sale of such pretensions receive encouragement, the Committee apprehend that the unclaimed residue will not afford a very productive source of revenue to answer His Majesty's gracious purposes. These circumstances the Committee have thought it expedient to state, not with a view of presuming to set limits to His Majesty's bounty, but as matters of fact, which they deem it necessary His Majesty's Ministers should be apprized of.

14. The Committee have also paid due attention to your Excellency's observations on the facility of adjudging on the purchase of pretensions; and have likewise considered the Analogy suggested from the nature of the Investigation of fact in cases of Life and Death: How painful soever the discharge of those duties may be, the feelings of those who preside on such solemn occasions, are greatly alleviated by the consideration, that crimes are defined with precision, the course of proceeding established by long experience, and the effect of evidence settled by a series of Determinations.

tions. But in the present case, first principles are to be previously established: What constitutes a Pretension? What shall amount to a Settlement? What species of conveyance shall be evidence of a purchase? these appear to be simple questions, but judicious Men would hesitate before they could be prevailed on to answer them. When these points are settled, the enquiry must proceed with precautions unattended to in the ordinary course of business. Evidence must even be required that every party named, has or had, a physical existence. For the Committee trust that the right of the Crown will not be concluded by the very simple process alluded to in the Order of Reference, that because no Caveat is entered, therefore there can be little doubt; The opening to collusion, being in such cases but too manifest. And as Testimony, tho' difficult to be obtained, will be procured in a common cause; and, as many consciences may not revolt at the means employed to procure the Lands of the Crown; the vigilance of the King's servants must be exerted in proportion; with the discouraging reflection, that after every effort it will be baffled, and that while they persuade themselves they are dispensing justice, they will in fact be only ministering to the triumph of fraud.

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If the being named in a Warrant of Survey constitutes a pretension, when it is considered that pretension is a plant of prolific growth in every soil, and that many thousands may avail themselves of such Claims; what time may it not require to adjust them?

Apprized as the Committee are of the innumerable frauds that have already been practised, of which they could produce abundant proof, as well as of the frauds which are daily practising, respecting the waste Lands of the Crown, with all the draw back of uncertainty avowedly attending the speculation, it being well known that three Patents only have been issued; The Committee almost shudder at the deluge of iniquity with which they must be overwhelmed should the Traffic of pretensions be confirmed; and finding that ordinary language is too feeble to express their apprehensions, they will dwell no longer upon the subject than sincerely to implore a further consideration, how far it may be expedient to authorize a proceeding tending to confound Possession with Right, and to encourage those loose notions of property which in these days are but too prevalent.

15. Attending to the progressive course observed in the Order of Reference, the Committee are now come to a part of it which gives them great disquietude; and tho' they are prevented by a sense of decorum from citing detached portions for the purpose of commenting thereon, yet they are compelled in justice to themselves to observe that by a particular passage in the Order of Reference they are reduced to very considerable embarrassment. The part alluded to must be designed either for the purpose of explanation, or for some other purpose; if for the former, it need not be observed that explanation receives small aid from the language of mystery, or rather from an averment that the matters alluded to never should be explained, unless it should become necessary; but if it be intended to convey the idea of which it is clearly susceptible, the Committee must observe of the person who advised it, that he shews little reverence for His Majesty's representative, by scattering vague and unworthy insinuations; or regard for His Majesty's Executive Council, in presuming they would be heard with indifference.

16. Altho' the Executive Council have been accustomed to receive more ample and specific information, particularly

particularly in Land-Matters, than it has been thought expedient to communicate by your Excellency's first order of reference, on which the Committee foresee, that unless they are supplied with some more precise document, they shall be unable to proceed, from the manner observed by those who have been directed to prepare it; yet they cannot omit expressing their acknowledgments for the detail your Excellency has been pleased to give of the materials laid before His Majesty's Ministers respecting the object in question. They beg leave to tender their approval of the course taken by your Excellency in not limiting your Information to the documents contained in the Council-books, which, altho' unquestionably authentic so far as they extend, are very inadequate to convey a comprehensive Account of the present State of Land-matters. They are also grateful for the information given to the Committee, that finding opinions diametrically contrary to each other, you submitted a true and faithful Statement of the different arguments on the subject. A conduct of this sort certainly evinced the most earnest desire of giving the fullest information. At the same time, recollecting the groundless Reports and absurd notions that prevailed in Public, and having heard nothing that deserved the name

of argument, a term which your Excellency's courtesy has assigned to their discourses; the Committee cannot but lament the peculiar difficulties under which your Excellency must have laboured in bringing forward what was worthy of the consideration of His Majesty's Ministers; at the same time they regret, that among the repeated enquiries, it was not thought necessary to demand any opinion on the Subject from a particular body, where it is probable your Excellency would not have been perplexed by a diversity of sentiment; because the Executive Council are led to conclude, from that harmony which for some years has happily subsisted among them (whether for the Benefit of the Province or otherwise is not for them to determine) with only one instance of recorded division, and that in a matter where the Public had no concern, they might at least have relieved your Excellency from part of that disquietude which must have arisen from the conflict of discordant sentiments.

17. Without regarding the vague and idle discourses of particular persons, the Committee will notice an error which was almost universally prevalent; which confirms the observation that men of eager minds,

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when warped by interest, are as liable to fall into mistake, as those of confused intellect. After the Report of the Committee on the Question, how far the faith of Government was pledged became to be made known, the general inference was, that because Government did not hold themselves pledged to gratify the expectations of every Speculator, therefore they did not mean to attend to the equitable claims of Individuals. The Committee did not conceive that such a consequence could be deducible from their Report, and were therefore under no apprehension that His Majesty's honor or dignity would suffer thereby.

18. Having again considered the regulations proposed to be made Public, the Committee still think it incumbent on them to represent the complaints that will inevitably be made, for the reasons before assigned; whether such complaints are of sufficient importance to be noticed, it rests not with them to decide; but they hold it their duty to state them. They are also apprehensive that the equitable motive for the indulgence shewn to actual settlement will be misunderstood; and as the opinion of the people is greatly influenced by words, that the very terms *actual settlement*, so congenial to their notions, will dwell

upon

upon their ears, and that they will be misapplied by future Applicants, who will continue to think that *actual settlement* is the first step to secure the Lands they petition for, which must necessarily produce the pernicious consequences pointed out in the former Report. In firm conviction of the truth of this opinion, and in full persuasion, that whatever is suggested by purity of Intention and submitted in terms of respect, will meet with a candid acceptance on the part of His Majesty's Ministers; they will presume to suggest that all the beneficial Effects graciously intended to the description of Applicants included in the second Regulation, may be equally secured to them by substituting other Terms for Effectual Settlement, in the form of the Regulation to be made Public; the Committee pledging themselves to a due observance of the Spirit, and trusting that much inconvenience may be avoided by changing the Letter, of the Regulations. On the fifth article, respecting the purchase of Pretensions, the Committee have already expressed their Sentiments perhaps with too much anxiety; they will therefore only repeat their serious request, that as they are convinced its execution will be attended with difficulties almost insuperable, and with consequences most mischievous, so they

humblly

humbly hope it may receive such temperament as his Majesty's Ministers in their Wildom may think it expedient to advise.

19. Upon a reconsideration of the matters referred to them, and of the conclusion contained in their former Report, the Committee find no cause to depart therefrom; and have therefore to request of your Excellency that it may be submitten to the consideration of His Majesty's Ministers, before the Committee undertake to propose any means of communicating to the parties concerned, His Majesty's gracious Intentions as contained in the Regulations.

20. Having laid before your Excellency their deliberate opinion on the matter referred to them, the Committee, they conclude in the usual terms of Submissio regret that they are under the necessity of trespassing somewhat further on your Excellency's patience from a circumstance connected with the present order of Reference. By the Correspondence and Examination, stated in the Journal of the 25th & 30th Ult. respectively, it appears that your Excellency has referred to some Authority of His Majesty, other than the 38th Instruction, of which the Committee

mittee have not hitherto been apprized; and that by your Excellency's construction thereof, the Order of Reference on which the present Report is founded became subject to Public inspection, and was actually perused by various Persons, before it came to the Possession of the Committee to whom it had been referred for deliberation, and of necessity before their Report could be framed thereon. The Committee apprehend this course to be so repugnant to the first Principles of propriety even in the ordinary transactions of Life, that they can with difficulty persuade themselves it would be sanctioned when applied to the important concerns of the Executive Government. On the present Occasion however, the Committee cannot but express their regret and surprize at the small regard paid to their Council, when, after having received their deliberate and unanimous Report that it is not adviseable for the present to make the Regulations Public, your Excellency should have been advised to direct that both the Regulations and the Report thereon should be made Public; and further, that when your Excellency was pleased to require the Executive Council to consider of the most proper means of communicating to the Parties concerned, His Majesty's gracious intentions, your Excellency should at the same time, before it were possible for the Committee

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mittee to Report on the Subject, peremptorily direct that Copies of the Regulations should be made out for such as chose to apply for them; of which Order many persons have already availed themselves. By these measures the Estimation in which your Excellency is pleased to hold the Executive Council, has become Public and notorious; and they cannot reflect on their situation without considerable uneasiness. It is a condition to which no one having the honor to represent His Majesty heretofore in this Province, has thought it prudent to reduce them; and they are conscious that the integrity of their conduct, their attachment to His Majesty's interests, and their zeal for the Credit of your Excellency's administration, demanded a more regardful treatment. The Committee beg your Excellency to reflect, that should His Majesty's Executive Council be degraded in the Public esteem, the contempt of the King's Government will have but one stage farther to complete its Progress. Being satisfied therefore, that it imports His Majesty's Interests as well as their own feelings, that the Opinions of the Executive Council should be entitled to some attention, they humbly request your Excellency that regard may be had to this consideration in all future directions; that the Committee may assemble in conference in discharge of their duty to

the King, without being reduced to the painfulneſſe
of concerting measures in ſupport of their
own dignity.

The Committee have accompanied this Report with
a Journal of their Proceedings, which they pray may
be conſidered as forming Part of their Report; to
which they have annexed various other Documents,
which is humbly submitted to your Excellen-
cy's wisdom.

By Order,

(Signed) WILLIAM OSGOODE,
Chairman.

Council Chamber, Bishops Palace,
Quebec, 9th. August, 1798.]

THE ANNEXATIONS ARE.

1st. The Journal of the Committee. Viz:

1798.

16th July, containing.

Orders on the Clerk of the Council, & Surveyor General, requiring certain Compilations.

[81]

Further Orders on the Surveyor General.

25th July.

- A Correspondence between the Governor's private Secretary, the Acting Clerk of the Council, and the Chief Justice, respecting the Proceedings being open to all Parties interested. And Interrogations from the Committee to the Acting Clerk of the Council, with his Answers, on the same Subject.

30th July.

Further Interrogatories and answers of the same parties on the same Subject.

4th August.

Respecting the Compilations required from the Surveyor General, and Acting Clerk of the Council.

8th August.

The Committee proceeded to take into consideration the Draft of their Report.

9th August.

Respecting a correspondence between Mr. Chief Justice

tice MONK and the Acting Clerk of the Council,
and an Address to the Governor on the Subject.

Motion of Chief Justice MONK to Substitute a Report prepared by him, in the place of the one prepared and proposed by the Chairman of the Committee; which was rejected, there being 3 Votes for the Motion, and 4 against it.

2d. A Statement of the number of Persons who had taken the Oaths, &c. prior to the 1st of August, 1795.

3d. Ditto of the whole number of Persons who have taken the Oaths, &c. so far as the returns of the Commissioners have been received.

4th. A Letter from the Surveyor General to the Acting Clerk of the Council, dated 18th July, 1798.

5th. A Ditto from Ditto to Ditto.—4th. August, 1798.

6th. An unfinished Schedule of Applications for Townships

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Townships, with the proceedings thereon, subsequent to the 7th February 1792.

THE GOVERNOR'S REMARKS

On the Report of the Committee of the whole Council of the 9th of August, 1798, upon the Reference of the 9th of July, " to consider of the most proper means of communicating to the Parties concerned, His Majesty's gracious Intentions, contained in the Regulations laid before the Board on the 11th. of June, respecting the Waste Lands of the Crown."

1st. The Governor observes the "thankful acknowledgments" of the Committee for his explanation of the import of the Regulations, and considers the other business with which the Members of the Committee were occupied, as a sufficient reason for the distance of time between the date of the Reference, and that of the Report. The Report was not delivered till seven days *after* its date; during which the Mails for England were closed, and the Fleet had left the Port.

2d. The Governor very readily admits that differences

rences of opinion do not necessarily imply censure, nor fair discussion produce discord among benevolent men: Much may depend upon the manner in which those opinions may be expressed, with respect to conveying censure; and the benevolence of Men's minds may sometimes be judged of by the truth and candor with which they may state and represent the Facts on which their opinions may be founded.

3d. The Governor will be very glad to receive that "zealous co-operation" which "the Committee trust he will meet with" on the part of the Members of the Council, "to keep His Majesty's sacred "word inviolate, and to perform whatever in justice "and honor may be required of the Executive Go- "vernment:" That the honor and good faith of His Majesty's Government in this Country may be preserved and supported (or rather restored & supported, for it has been greatly impaired in the minds of many of his faithful people) is, so far as relates to the present subject, the summit of the Governor's wishes. The Committee might have spared their fears of the liberality of Government being abused; the Governor's disposition to prevent abuses, is by no means inferior to that of the Committee.

4th. The Governor is sensible of the attentions of the Committee " in the observance of respectful usages."

5th. The Extract from the Minutes of Council cited by the Governor on the 9th of July last, contains explicit and irresistible evidence, that the Applicants were *de facto* invited, encouraged, and advised, by the Executive Government, to come in and settle upon the Lands they had petitioned for, without waiting for any of the further forms prescribed for issuing legal titles: That the then immediate object, was to procure a supply of Surveyors, is true: But the record contains the most express and incontrovertible evidence of the causes from whence the want of that supply of Surveyors arose: To Wit.—The invitations and assurances that had been given by the Executive Government to the Applicants, encouraging them to come on and settle; and the expectations entertained by the Executive Government, that they would so come on, upon the faith of those invitations and Assurances.

How such a piece of written evidence of matter of fact, solemnly given and delivered by two Committees of the Executive Council, and solemnly and deliberately recorded by the Executive Government itself, in

in Council convened, should, after the people had so come on and settled, be "considered as a nullity," and "looked upon as a *dead letter*," quite surpasses the Governor's comprehension.

How far the Executive Government of *that* day, might have laboured "under the prevalence of a temporary mistake", the Governor does not think it decent in him, at *this* day, to enquire: But it would afford him pleasure that the Executive Government of the *present* day should not labour "under the prevalence of temporary mistakes."

6th. The Governor had perused the "plan of the ordinary progress of the business of the Land Office "Department" adopted in Council (and published in the Gazette) in March 1792, cited in the present report of the Committee; and he had observed that a part of the expence of the Surveys was thereby chargeable to the Crown; which he conceived, (as do the Committee) to have been unnecessary: neither had it escaped the Governor's notice that the plan so adopted, varied from the Directions contained in His Majesty's Royal Instructions, in the instance of issuing the warrants of Survey previous to the Applicants taking and Subscribing the required Oaths and Declaration, instead of directing the Oaths and Declaration to be taken and subscribed

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7th. The Governor had likewise understood that upwards of an hundred & fifty Warrants of Survey for townships, were issued, long before any Commissioners were appointed to administer the Oaths and receive the Declarations, mentioned in His Majesty's Instructions; as also, that the Settlements went on very tardily, in consequence principally of the uncertainty of the Applicants with regard to the three points mentioned in report of the Committee: To wit.

- 1st. The Position of the Lands intended to be reserved for the support of a Protestant Clergy, and for the future disposition of the Crown;
- 2d. The amount of the fees; and
- 3d. The quantity of Land the Petitioners & their Associates might expect.

The first of the above mentioned points, although no doubt of very considerable weight, was however thought much less of than the *Third*; because it was naturally taken for granted, that if on the final determination of the positions of the Reservations, any Part or parts thereof should fall upon any of the Lots

that might in the intermediate time be settled on, the Settlers would be allowed to hold them on the same terms as might be granted to future Occupants of the reserved Lands.

The Second point was of much less moment than either of the other two: Those of the Applicants whose views were directed *bona fide* to the actual Settlement of the Land, personally, did not consider the fees to be any very material Object, although uncertainty therein was doubtless unpleasant.

The Third of the abovementioned points was by far the most important to the Applicants, it being indispensably necessary for the carrying on of a new settlement in an inland Country with vigour, that the quantity of Land so to be granted, should be sufficient to reimburse, to those who first engage therein, the *extra* expences to which they must be put, in opening roads through a pathless wilderness, and in bringing forward those necessaries that are essential to the formation of a new Establishment: Burthens from which future Settlers are exempt.

8. The Governor was also acquainted with the time which elapsed before the above points were settled, but the Committee are not quite correct in this part of their statement.

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The *Third* of the above mentioned three points was determined in Council on the 17th of March, 1794, in consequence of a Memorial presented to the late Governor (Lord Dorchester) by Asa Porter and Nicholas Austin, "on behalf of themselves and other leading Petitioners for Lands in Lower Canada, residing in the states of America."

The *First* of the abovementioned three points was finally determined on in Council on the 10th of October, 1794: the *second* was not determined on 'till the 29th of August, 1795.

The Governor had likewise observed that no Commissioners were appointed for administering the Oaths to the Applicants, and receiving their Declarations, until the Month of October 1794: But every principle of common reason and common justice, as well as every principle of Honor and good faith, unite together, in forbidding the Governor to admit that "the former proceedings" containing the Encouragement and assurances given in the name and on the behalf of his Royal Master (were, on account of any or every of these delays or defects in the conduct of his Servants) rendered "*null*:" The former proceedings can be "*null*" only with respect to those who did not

evince their acceptance of the Encouragement and Assurances held out to them; Any person who would be guilty of such a violation of His Majesty's sacred Honor and good faith, as to harbour even for a moment, within his breast, a desire that the former proceedings should be "*null*" with respect to such as had embarked their labour and property upon the faith of the encouragement and assurances so given, would ill deserve His Majesty's Royal favor or protection,

The Governor had likewise seen the advertisements from the Council-Office, of October, 1794, and January 1795, notifying the Applicants of the appointment of Commissioners for administering the Oaths &c. and requiring them to send in Lists of their names. The Governor notices what is mentioned by the Committee with respect to the advertisement of the 17th January, 1795, having been published with a view to quicken the attention of " those who having taken " Possession under their warrants of Survey were " contented with their occupancy, and did not seem " disposed to give themselves any further trouble;" If a Judgment might be formed from the trouble those Applicants have taken, time after time, as well before that period as since, in journeys to Quebec, in

order

order to obtain a completion of their grants ; the Governor would be induced to believe that the Committee must have laboured under a mistake, in supposing there were any such people as those they speak of. It is indeed true that there were only a few Associations, (six the Governor has seen) the lists of which were received at Quebec previous to the publication of the Advertisement of the 17th January, 1795. But the delay in this respect might be very rationally accounted for, by considering the situation of a new settlement in a Wilderness : The Inhabitants of the new Settlements might not (and probably did not) become acquainted with the Advertisements of October, 1794. so early as Gentlemen who reside in a Post Town might imagine : this the Governor believes to be the true reason why a greater number of the Lists were not received between the dates of the Advertisements of October, 1794, and January, 1795. The Governor had also observed (conformably to what is mentioned by the Committee) that by the last of those Advertisements it was directed that the Applicants who had before that time obtained Warrants of Survey, or Orders of the Governor in Council, should give in the abovementioned lists of

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their names, on or before the 1st day of August then ensuing, on pain of being considered to have relinquished their pretensions to the Land.

9. The Governor will not conceal from the Board the surprize and astonishment he felt, at being told in the Report of the Committee "that at the expiration of this period, it appeared from the Schedules annexed, " and the Returns of the Commissioners, that, of upwards of 300 Leaders and ten thousand proposed Associates, the number of those who had complied with the directions, did not exceed five hundred and fifty." And that the rest had "neglected to comply with the terms of the notice" and were therefore "Subject to the penalties thereby announced" The Governor assures the Board that the number of Applicants comprehended in the Returns actually received from the Commissioners and referred by the then Governor (with the Commissioners Reports thereon) to the Committee of Council, prior to the above-mentioned 1st day of August, exceeded *two thousand*; on the third day of August it exceeded *three thousand*: On the twenty fifth day of August (which is certainly not an unreasonable length of time to be allowed for the Commissioners to make their Enquiries and Reports,

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and for the same to be received at Quebec) it exceeded *Four thousand*: and many others were received and referred afterwards. More than *one third part* of the above numbers (over and above the cases of specific quantities, in which the faith of Government was considered to be pledged by the Report of the Committee of the 24th of May, 1797,) were recommended by the Commissioners as persons of good character, and approved of as such by the Committee of Council: The characters of the rest were Reported to be unknown to the Commissioners; but this could certainly amount in justice, only to a temporary suspension, not to a rejection, in respect to those whose characters were so reported to be unknown.

The Governor would not however be understood to mean, that he considers all the Persons mentioned in those Lists to have had an intention of settling on the Land, conformably to His Majesty's Royal and gracious Intentions: on the contrary, he considers it to be very probable that a part of them might have been people who had only lent their names to others, for the purposes of Monopoly; What proportion this part might bear to the rest, the Governor cannot undertake to say; but be this as it might, the rest could not

not on any possible principle of reason, or of Justice, be in the remotest degree affected thereby: Their giving in the Lists of their names was all that the above-mentioned Advertisements required of them, and all they could do consistently with those Advertisements, until further directions should be received by the Commissioners from the Council-Office, and communicated to them; Then, but not till then, were any of them (not even those who had actually settled upon the Land, in consequence of the former invitations of the Executive Government) allowed to testify their loyalty and attachment to His Majesty, by taking the Oaths and subscribing the Declaration of fidelity to His Government, although their so taking the Oaths and subscribing the Declaration, was a *fine qua non* of their obtaining the Grants that had been so long promised them: Instances are not wanting of persons taking long Journies for that express purpose, and being refused: And yet, notwithstanding all this, they are considered by the Committee as having "neglected to "comply with the terms of the notice" and as being "subject to the Penalties thereby announced."

The Governor cannot help remarking that it would redound more to His Majesty's service, and much more

more to the Honor of the Committee, if the more active Members thereof (in whom the less active must necessarily place a confidence) were more correct in their Statements, and more just in their conclusions.

The Governor has the fullest reason to believe that the Circumstances stated by the Committee with respect to the Settlements made on the Lands by Intruders, are as good similar in point of correctness, to the Statements noticed above; although he would not be understood to suppose that the new settlement in this Province were so entirely different from those in any other Province, as to be without any instances at all of that sort; These instances, however do not come within the benefit of the Regulations lately communicated to the Board.

The Governor will not omit to return his thanks to the Committee for their Declaration that the Proclamation (meaning the Proclamation of the 22d Aug. 1797 by which those who had gone on to the Lands without sufficient Authority were directed to depart) was never intended by the Executive Council to affect the Parties alluded to in the Governor's Communication to the Board of the 9th. of July last, who might have an equitable claim upon Government; but those only

who had no such claim. The Governor feels himself the more obliged by this Declaration from the Committee, collectively, not only because he was unable to deduce it from the Report of the 20th of June last on his re-examination thereof; but likewise, because endeavours had been heretofore made to obtain such an Interpretation from some of the Members individually, which proved unsuccessful. The Governor however, having fully shewn that the statements contained in the Report are not correct, he is of course unable to acquiesce in the opinion of the Committee, with respect to their *proof* of the *Position* they had asserted.

10th. The Governor will not withhold his thanks for the Declaration now made by the Committee in favor of those of the Applicants " who come strictly under the Description set forth in the second Regulation and have also obeyed the notices issued by the Executive Council;" To wit. " That the Committee never entertained a doubt but they had an equitable claim, which the Committee have ever been ready to confirm."

The Governor is exceedingly sorry at his happening to be unable to discover this disposition of the Committee

mittee from either of their Reports of the 24th of May 1797, or 20th June, 1798; and at his not having happened to learn it from some of the Members individually; This disposition being, however, now declared by the Committee collectively, the Governor would willingly conceive that the misconceptions which have taken place, may have arisen principally, from the circumstance of its having been supposed by the Committee, that the numbers that had obeyed those notices were infinitely short of what they really are, as pointed out above: And it would appear to the Governor, from this Declaration, that there can no longer remain in the breasts of the Committee, any rational cause of hesitation or further delay, with respect to the propriety of proceeding to carry His Majesty's gracious intentions, contained in the Regulations laid before the Board on the 11th of June last, into execution.

Those of the Settlers who do not, on the clearest principles of reason and of Justice, come within the class which the Committee have thus declared in favor of, are so few in number, that no material difficulty can arise therefrom, unless Gentlemen should be disposed to create difficulties where none in reality exist.

The Governor has already observed that obtrusive Settlers (by which he means such as are neither connected with any known and acknowledged Association, nor have any Order of the Governor in Council in favour of themselves individually, do not come within the Regulations; so that the difficulty which the Committee represent themselves to labour under, with respect to knowing whether such Settlers are "to partake or be excluded from the benefit of the "Regulations" is removed.

11th. The Governor likewise returns his thanks for the acknowledgement made by the Committee, respecting his explanation of that part of the Regulations which allows those who are seated on lots reserved, to hold them on the same terms as may hereafter be granted to other Occupants of reserved Lots: To Wit, "That the Committee are ready to admit "that it may apply to the small number of Townships alluded to," which must of course mean those that were begun to be settled prior to the final determination of the Position of the Reservations in October 1794. This "small number of Townships" is, however, almost the whole that have at this day any very considerable Settlements on them. So few are the instan-

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ces of Townships having any considerable Settlements, that have been begun to be settled since that time, that "the question with the Committee, whether it applies to "the remaining Townships?" will be better solved when the terms and Regulations for disposing of the Reserved Lots to Occupants shall be received.—Till then, nothing further can be done with respect to the Lands reserved, except merely to designate them in the Patents, as the Law requires.

12th. The extent of the Pretensions comprehended in the Regulations, is so clearly described in the Regulations themselves, that no compilations from other documents could render it more clear, for any purpose appertaining to the immediate question in reference: The purchases of pretensions as connected with the *second, third, and fourth* articles of the Regulations, are those only where the Purchasers, or those they purchased from, have evinced their sincerity by embarking their labour and property, either in the actual Settlement & Cultivation of the Land, or in surveying or exploring preparatory thereto. The compilations desired by the Committee could throw no light on the question relative to their Extent; nor indeed was that question connected with the question in reference.

ference. The Governor could by no means consider it to be consistent with his duty, to refer to the consideration of the Committee, whether it might, or might not be proper, that the Commands of His Royal Master should be obeyed: He referred only, for the consideration of the Committee, the most ready steps for yielding obedience to those Commands. The compilations desired by the Committee, could have no connection with the question referred; however useful they might hereafter become, for facilitating the examination of what might be stated by the respective Applicants. It will naturally be observed from this Remark, that the "Concern" which the Committee mention to have felt for the "familiar use made of his " (the Governor's) name," in this respect, might have been spared.

It is moreover conceived that the Committee stepped somewhat out of their Province in issuing orders without being thereunto authorized by the Governor.

Had the Committee really found themselves in want of documents, it would have been more consistent with what, in a former part of their Report, they were pleased to term an "observance of respectful usages," if they had represented the same, instead of undertak-

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ing to issue Orders which could not fail to interrupt the necessary business then on hand for the Governor.

13th. If the quantity of ungranted Land on the south side of the St. Lawrence were really what the Committee state it to have been estimated at, to Wit, 20,700,000 acres; the fulfilment of all claims and pretensions in that quarter (over and above the Orders of the Governor in Council for specific quantities of Land to particular Individuals) comprehended in His Majesty's gracious Regulations communicated to the Board on the 11th of June last, if carried into immediate execution, would not in all probability (although it is not indeed possible to speak with absolute certainty) require so much as the one twentieth Part thereof to be granted on the old Fees: In all probability therefore; more than Nineteen twentieth Parts thereof would be applicable, as a source of Revenue, to the defraying of the Public Expences of the Province. The Governor may likewise observe, that the labor and expence which has (in consequence of the encouragement heretofore given by the Executive Government) been laid out by the Applicants, upon the parts so to be granted for the fulfilment of His Majesty's above mentioned gracious intentions, have rendered the value of the re-

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mainder, many times greater than the value of the *whole* would have been, if that labour and expence had not been so laid out. The Governor must therefore be unable to agree with the Committee in apprehending " that the unclaimed residue would not afford a very productive source of revenue to answer His Majesty's gracious purposes."

In regard however, to the quantity of Land mentioned, (20,700,000 acres,) the Governor had long understood, or else he misunderstood, that some (if not the whole) of the Members of the Board were so fully acquainted with the incorrectness of the Old Maps, on which that estimate was founded, as to be entirely convinced that the estimate had been formed " under the prevalence of a temporary mistake," of such magnitude, that no man possessing actual knowledge of the Subject, whereby to be entitled to any regard therein, could at this day consider such Estimate to contain " matters of fact" which any one would deem it " necessary His Majesty's Ministers should be ap-¹⁴⁰prized of," unless it should be for some purpose altogether different from that of giving them real information with respect to the true state of the case. The truth is, that although the Interior Geography of the Province, has within the last five or six years been much better understood than before, yet, even

at this day, no Estimate to be in any tolerable degree depend'd on, could be formed, without first ascertaining (what we have hitherto very little knowledge of) the situation of the heighth of Land, which divides this Province from the Governments of New Brunswick and New Hampshire ; Till then, all Estimate in that quarter must be mere random gues,

Were the quantity of ungranted Land, fit for Cultivation, on the South-side of the River St. Lawrence, equal only to the *one half* of the quantity stated in the above-mentioned estimate, the residue, after the fulfilment of all the claims and pretensions comprehended in the Regulations lately communicated to the Board, would afford a very important source of Revenue towards answering His Majesty's gracious purposes.

14th. If there should be any actual difficulty in adjudging of the Purchases of any of the Pretensions that come within the Regulations, it can only be in some of those old cases, where the Orders of Government in favour of the Applicants were passed ten or fifteen years ago ; and where the Parties who were thereby originally entitled to the Grants, may be dead, or removed from the Province : If such in-

vestigations should be too laborious for the Members of the Council, Commissioners might be easily appointed for that purpose ; for it is certainly high time that the People should have legal titles to the Lands that have been so long solemnly promised in His Majesty's sacred name, as Rewards for the Loyalty and Services of the Original Donees.

The claims and pretensions under the Proceedings of the Executive Government relative to associated Companies, are limited by the Regulations, as has been observed before, to those cases where the Applicants, or those they purchased from, shall have actually embarked their labour and property in the settlement and cultivation of the Lands, or in surveying or exploring preparatory thereto : The Governor cannot admit that there can be any possible difficulty in ascertaining the Facts, in regard to those who have actually so done; and none other come within the Regulations.

If, in any of these cases, the parties should be found not to have had " a Physical existence," the Governor's surprise would be greater than what he has already felt at reading the report of the Committee. No real difficulties can arise in the business of carrying His Majesty's gracious Regulations into effect, con-

sidered in itself: the only real difficulties that can take place therein, must arise, not from any thing in the business itself, but from the endeavours that may be made to find out visionary pretexts whereon to build imaginary difficulties.

By carrying the Regulations into immediate execution, that "Deluge of iniquity" as the Committee express it, in the trafic of Pretentions, will be at once put an end to: A further, and (the Governor may add) an infinitely greater deluge of iniquity, fraught with the most dangerous consequences to the tranquility of the Province, as well as repugnant to the sacred Honor, Dignity, and good faith of His Majesty, namely, the Endeavours of one set of People to obtain Grants of the Townships which another set of people have (in consequence of the encouragement heretofore given them by the Executive Government for that purpose) transformed from a wilderness into a state of habitation, would likewise be put an end to by the same stroke: But the longer the issuing of the legal titles shall be procrastinated, the more may these "Deluges of iniquity" be expected to encrease. When the Governor considers the repeated Public invitations that have been given by the Executive Govern-

ment since the conclusion of the American War, for People to come into this Province to settle on the Waste Lands; When he likewise considers that many hundreds of families embraced those Invitations, and, that the system of practice adopted and pursued by the Executive Government, was such, that altho' the people were thereby authorised and encouraged to enter into immediate Possession, yet, untill the year 1796 there was not one single instance of a legal title being issued, notwithstanding their continual applications to obtain regular Grants; When the Governor considers these things, he cannot but feel astonished at the manner in which the Committee (several of whom were members of the Executive Council during the whole time) now express themselves, with respect to "loose notions of property" which tend "to confound Possession with right:" nor can the Governor's astonishment fail to be increased, when he considers that in the midst of their disapprobation of those "loose notions of property" which so tend "to confound possession with Right" (and which were *de facto* created by the practice adopted and pursued by the Executive Government itself) the Committee should still remain desirous that the issuing of the legal titles, the only possible remedy which the nature of the case can

admit

admit of, should be still longer procrastinated, whereby those very evils which they so emphatically complain of, must of necessity be prolonged and increased.

15th. The Governor cannot but be sorry that any passage contained in his late communication to the Board should have given cause of disquietude to the Committee, or reduced them to any embarrassment. The passage to which the Committee allude must be that in which, speaking of obtrusive Settlers coming in "to make their pitches" as they term it, and as noticed by the Committee in their Report of the 20th. of June last, the Governor happened to mention that "from the operation of certain causes" which he did not think it necessary to explain, he considered that there was "more reason to apprehend instances of "that sort of late than formerly;" as also "that were "those cases to be laid fully open, many of the "people whom there was reason to expect might un- "dertake long Journies upon that errand, would be "found to merit commiseration not reproach.

The pain which the Governor feels at having by this passage, given the Committee any cause of disquietude

quietude, will induce him to make all the atonement that may be in his power, consistently with the avoidance of all future causes of disquietude that might at any time hereafter be given to any individuals. And he will accordingly enter so far into an explanation of the above quoted passage, as he shall consider to be necessary for removing all just cause of disquietude under which the Committee may labour; and for shewing the reasonableness of the opinions therein laid down: But he will by no means (at least for the present) go so far into an explanation thereof as to enable any person or persons that might be so disposed, to wound the feelings of any other person or persons, by saying that such or such particular Individuals, were, in this, that, or the other degree, concerned in the Transactions or connected therewith. The Governors sole object is to prevent, as far as may be possible, any kind of injury or oppression from being carried into effect; and he would wish, if it might be practicable, that this object should be accomplished without injuring the feelings even of those persons that might have been desirous of enjoying the fruits of the labour of others, who would in such an event, have cause to complain of being injured and oppressed.

The circumstances to which the Governor alluded in the passage above quoted, were these; In the years 1794 & 1795 (after the Waste Lands had become of some value from the labour and expence that had been laid out in the Settlement of Sundry of the new townships, in pursuance of the encouragement and assurances given to the Applicants by the Executive Government in 1792 & 1793,) views were contemplated by different persons, sundry of whom had till then considered the Land not to be an Object worth their attention, for the purpose of obtaining Monopolies thereof, entirely contrary to the spirit and intention of His Majesty's Royal Instructions in that behalf. These views were not confined to Lands that had till then remained unapplied for, or to Townships where doubts might be entertained in regard to the sincerity of the Intentions of the former Applicants with respect to the Settlement and Cultivation thereof conformably to His Majesty's gracious intentions: Had they stopped here, the business might, not improbably, have been carried into effect without being much noticed: But they did not stop here: The views were extended likewise to townships in regard to which no such doubts could be reasonably entertained: And still further: They extended even to the obtaining, or endeavouring at least to obtain, those very Townships, one or two only excepted

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cepted, which the former Applicants (in pursuance of the advice, encouragement, and assurances, given them by the Executive Government) had actually settled on, and by great labour and expence rendered valuable: nor did the circumstance of the former Applicants obeying the notices issued from the Council-Office in October 1794 and January 1795, nor the circumstance of their being thereupon approved of by the Commissioners, and by the Council, prevent further steps from being taken upon the above-mentioned views of Monopoly, for the purpose of obtaining grants thereof to the behoof of other Persons. This, if carried into effect, would not only be a most grievous and intolerable oppression with regard to the former Applicants, accompanied with a great violation of His Majesty's sacred Honor and good Faith, but would likewise be fraught with the most dangerous consequences to the peace and tranquillity of His Majesty's Government.

But to come immediately to the point particularly alluded to in the above quoted passage of the Governor's communication to the Board on the 9th. of July last; Persons were employed on the part of those who were concerned in the abovementioned Plans of intended Monopoly, to go into different parts, in this

Province

Province and the neighbouring States, to find people (to the amount of some thousands) who would lend their names as nominal Grantees, and who might be depended on for the purpose of conveying over the Land, or the greater part thereof, when granted, to the persons concerned in the above mentioned Plans. The persons thus employed (owing perhaps to some imperfection in their Instructions, or to their not perfectly comprehending the nature and intention of their Mission) gave to those with whom they so engaged, certificates, importing that the Bearers thereof were entitled to certain quantities of Land in the new Townships in Lower-Canada: Many thousands of these Certificates were given; and such were the Credentials with which the Persons so employed were vested, that the certificates were looked upon by great numbers of well disposed people, as being little inferior to Patents under the Great Seal: Many of His Majesty's faithful old Subjects who had remained in the States after the end of the American War, and retained their affections to their ancient Sovereign under whose Allegiance they were born, conceiving (from the Credentials which the Persons so employed bore) that there could not be any deception, hesitated not to purchase, for valuable considerations, from others who from time to time

changed their minds with respect to coming in to settle, a number of these Certificates as Provisions for their Children; whom they intended should fix themselves in this Province, under the Government of their Ancestors : some of these certificates were so purchased at the rate of a quarter of a dollar an acre ; the Governor himself has seen the Copy of one which he believes was purchased at that very price. But altho' many of these Certificates were thus purchased by faithful old Subjects of His Majesty, with pure intentions of settling on the Lands conformably to His Majes. Royal Instructions in that behalf, yet, it may reasonably be expected that many likewise were purchased by people of a different description, on principles of mere speculation.

These circumstances, the Governor hopes, will be sufficient to satisfy the Board, that he had sufficient reason for entertaining the opinion, that there was greater cause " to apprehend the coming in of " people to make their pitches as they term it, of late, " than formerly;" and the Governor cannot but conceive that this circumstance ought to operate as an additional and very weighty reason, for proceeding to carry His Majesty's gracious Regulations lately laid

before

before the Board into Execution, in the cases to which they actually apply, with as much expedition as may be practicable; in order to avoid that mixture of extraneous cases, which, from the above mentioned causes, might, not improbably, take place, if the business should be longer delayed. The Governor likewife conceives that the above-mentioned circumstances will equally evince to the Board, the reasonableness of his further opinion, that "many of the people whom there was reason to expect might undertake long journeys upon that errand, would be found to merit commiseration not reproach." Those who, with upright intentions, had given valuable considerations for the above-mentioned Certificates, upon the faith of the Credentials which the Persons who were employed in the business bore, and had thereby lost the property which during an upright Life of Labour and Care they had gathered together, would certainly be entitled to commiseration from every feeling breast.

The Governor notices what the Committee mention respecting his having, in their Idea, followed the advice of some person or persons unnamed, in regard to the mentioning of the above opinions, in his late Communication to the Board: The Governor cannot conceive

ceive himself to have given any just cause for that Idea of the Committee; and he would wish the Committee to understand, and to believe, that he is not disposed to follow the unjust advice of any person or persons whatever.

16th. The Governor cannot easily conceive what "more ample and specific information," the Committee would wish for on the Present Subject, beyond what he has laid before them. The Governor has laid before them His Majesty's Instruction under His Royal Signet and Sign Manual, directing that the fees are in future, to be such as His Majesty shall be from time to time pleased to establish, either "under His Royal Signet and Sign Manual," or by His "order in that behalf, signified by one of His principal Secretaries of State." It was His Majesty's pleasure to signify his orders in that behalf by one of His principal Secretaries of State, according to the latter part of His Royal Instruction; and the Governor has accordingly extracted from the Dispatches he has received, such parts as relate to the Subject, and laid the same before the Board: These designate the amount of the different fees to be taken, together likewise with the different proportions of Land to be granted upon

upon the Payment of those different fees, in the several and respective cases in which they are directed to be applied. The Governor really cannot see what more the Committee can desire; for he cannot allow himself to suppose that any Member of the Board would think it consistent with his (the Governor's) duty, to lay his Dispatches at large upon the Table: The Governor alone is responsible for the justness of the Extracts he takes from them, whether on this or on any other subject.

The Committee express "their Regret that among " the repeated Enquiries" which the Governor made, " it was not thought necessary to demand any opinion " on the Subject from a particular body," meaning " the " Executive Council." Did not the Governor request the opinion of the " Executive Council," and did he not receive their Report on the Subject? The Minutes of the Board of the 7th of June, 1797, will shew that he did. That Report of the Council gave general dissatisfaction and uneasiness.—The Governor likewise, by the advice of the Council, issued soon afterwards (22d of August, 1797,) a Proclamation, which turned that general dissatisfaction and uneasiness which had been excited by the above-mentioned Report, into a cause of alarm, in the minds of many

many of His Majesty's faithful People. It became from thence, a duty, on the part of the Governor, to examine more strictly into the nature of the business himself personally; and as these examinations did not require the assistance of the Council (in as much as the Governor had then already been favoured with the result of their deliberations,) he forebore to trouble them unnecessarily. The statements and conclusions contained in the Report which the Governor had then already received, sufficiently evinced, on the re-examination thereof, that "any disquietude which might have arisen from the conflict of discordant Sentiments," on that Subject, was not likely to be relieved by giving unnecessary trouble.

17th. The Committee admit as a fact, that it was generally inferred from the above mentioned Report, that Government (meaning the Government of Lower Canada,) "did not mean to attend to the equitable Claims of Individuals :" This inference is now called by the Committee "An error which was almost universally prevalent" and they would seem to consider it as a proof "that men of eager minds when warped by interest, are as liable to fall into mistake, as those of confused intellect." The Governor

vernour cannot readily discern the connection between the *Antecedent* in this instance, and the *consequent* drawn by the Committee. The real truth is, that it was not conceivable from that Report, that there could be any body, except the small number therein described, that had *any* "equitable claims;" such was the general (it may be said the universal) interpretation given to that Report: It was not the interpretation of People only who might in possibility be supposed to be "warped by Interest," or of those who could be considered "of confused intellect:" It was equally the interpretation given to it by People who had no Interest or Connection in the business, as by those who had; It was equally the interpretation given to it by Gentlemen who were never within several thousand miles of this Country, as of those who were immediately on the spot: Nay, it was 'till very lately, the avowed interpretation of some whom the Governor will decline naming: And, little as the Committee may appear to apprehend, with respect to His Majesty's Honor and Dignity being injured; the fact is, that from the manner in which the Land business has been conducted, the Faith of His Majesty's Government in Lower Canada, has long been equally proverbial with the *Punic Faith* of ancient story. It is high time that

His

His Majesty's sacred Honor and good Faith should be rescued from such a Stigma.

18th. There is little reason to apprehend that any of the well disposed Applicants who have not proceeded to the Settlement of the Lands they Petitioned for, will consider themselves aggrieved on account of its being His Majesty's gracious pleasure that a greater proportion of the respective Townships should be granted on the *Old fees* to those who did proceed to the Settlement, than to themselves: They well know that the Lands which they applied for are become increased in value, in consequence of the Settlements that have been made in the other Townships, infinitely beyond the amount of the additional fees to which they are subject by the late Regulations: and although it would have afforded the Governor great pleasure, to have been able to put the really sincere Applicants, who had been *bona fide* waiting for their Grants in order to go on faithfully with the Settlement, upon the same footing with those who had actually gone on therewith upon the faith of the encouragement and assurances that were given them; yet, he has the pleasure to inform the Board, that he has received full assurances, that the Regulations give general

tal satisfaction in that respect; and that the endeavours that have been tried, in order to excite jealousies among the different classes of the Applicants, on account of the just and reasonable distinctions which His Majesty was graciously pleased to make, have had no other effect than that of increasing the public esteem towards those who were desirous of exciting those jealousies; Some of the Applicants who fall under the third Article of the Regulations lately communicated to the Board, have already petitioned the Governor for the Grants of the Townships they have surveyed preparatory to the Settlement, the *one half* thereof upon the *Old fees* and the *other half* upon the new fees conformably to the Tenor of that article; so that the apprehensions of the Committee with respect to the dissatisfaction of that class of the Applicants, are without foundation. But even were any of those Applicants dissatisfied in the manner the Committee would have it supposed, such circumstance could certainly furnish no kind of reason, why so much as shall, by the Regulations, be grantable upon the *Old fees* should not be immediately granted to those who have been so long waiting in a state of direful suspense and insecurity. Neither could it furnish any kind of reason for further delay.

with respect to granting such further parts as shall by His Majesty's gracious Regulations lately communicated to the Board, be grantable on the *new fees* to those of the Applicants who are satisfied therewith, and who would rather pay those *Additional fees* whereby to go on in security with the Settlement immediately, than wait longer in uncertainty and suspense; which is in fact the case with all those of the Applicants falling under the third and fourth Articles of the Regulations, whose views are really directed to the actual settlement and cultivation of the Lands they petitioned for, conformably to the gracious intentions of His Majesty, as laid down in His Royal Instructions. The payment of the *Additional fees*, being optional with the Applicants, can be neither oppressive nor injurious to any; but delay must infallibly be not only injurious and oppressive, but even ruinous, to those of the Applicants who have disposed of their property elsewhere, preparatory to their settling in conformity to His Majesty's gracious intentions, on the Lands heretofore promised them in this Province.

Those of the Applicants who are not farmers by profession, and have little or no intention to put themselves to any trouble or expence towards the Settlement

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ment and Cultivation of the Lands they petitioned for, might not (and probably would not) be injured by any delays the Committee might wish for: But to those of them who are farmers by profession, and who have prepared themselves for the immediate Settlement of the Land conformably to His Majesty's Intentions, *delay and ruin* must be terms nearly synonymous.

The Governor cannot but remark the disapproba-
tion which the Committee express in regard to the
Terms in which His Majesty's Royal and gracious in-
tentions respecting the Granting of the Lands are
conveyed; namely the Terms "*actual and effectual
Settlement*" of the Lands so to be granted: nor can
the Governor fail to remark the difference between
the ideas which the Committee entertained on that
head in the years 1792 and 1793, and those which
they have of late entertained.

In the years 1792 and 1793, the Applicants from
the late Colonies (exclusive of those who might be
denominated mere Speculators, and who had no view
to the actual Settlement of the Lands,) were repre-
sented to be, what would seem unquestionably natu-
ral, composed in a very considerable measure of two

classes of People, which in all Revolutions of Government, ever were, and ever will be, numerous and respectable ; The *first* consisting of people whose hearts and affections were always attached to their former Sovereign; and the *second* consisting of people who having departed for a time from their former allegiance, became afterwards induced by a little experience to consider their former situation preferable to their new one, and were therefore desirous of returning to it again. These (while the Lands were considered to be of no value) were represented by the Committee as skilful and industrious farmers, who would be as it were a gold mine to the Province, and who merited every encouragement that could be given them to come in and settle : But when in consequence of that encouragement they had so come in and settled and when by the exertions of their "Skill & Industry" they had rendered the Land somewhat valuable, their characters it would seem in the opinion of the Committee, had become so entirely changed, as to amount to a transformation of them from "skilful and industrious farmers," meriting every encouragement to come in and settle, into a "lawless and obtrusive race" meriting only to be driven out as it were with a scourge.

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This want of consistency cannot but be exceedingly unpleasant. If however, the Committee now mean only to express their disapprobation of that system of irregularity in business, so long pursued in this Province, by which the Settlements were carried on without any legal titles being issued for the Land, the Governors ideas and those of the Committee will so far coincide : But, after the encouragement that has been given to the Applicants by the Executive Government of this Province under that system, nothing can now put an end to that irregularity excepting only the issuing of the legal titles, in conformity to His Majesty's gracious Regulations, to those who have embarked their labour and property therein.

The Governor observes what the Committee mention in regard to "pledging themselves to a due observance of the spirit of the Regulations" hereafter: But it ought to be observed that in the mean time Ruin stares many of the faithful Applicants in the face: Besides, what security could there be, after what we have already seen, that such a pledge might not be hereafter "considered as a nullity and looked upon as a dead letter?" It would tend infinitely more to the restoration of the Honor, the Dignity, and the

the good faith, of His Majesty's Government in this Country, that the old promises should be fulfilled, than that new pledges should be given, which could in no degree be more depended on than those that were given before. The Governor would not however have the smallest objection against "substituting other terms for *effectual Settlement* in the form of the Regulation to be made Public;" provided only that the sense be the same as that contained in the Regulations he has received by order of His Royal Master, and lately communicated to the Board.

It has been before observed that the *fifth article* of the Regulations (as being connected with the *second, third and fourth articles*) is already confined to those cases where labour or Property has been actually embarked by the parties, either in the actual Settlement and Cultivation of the Lands, or in surveying or exploring preparatory thereto: This, His Majesty is graciously pleased to consider as a Proof of the sincerity of the intentions of the parties to proceed in the business conformably to the intent and meaning of His Royal Instructions, so far as to entitle them, in His Royal Benevolence, to Grants, in the respective degrees specified in the Regulations: This *fifth article* therefore

fore, can admit of no temperament that shall confine it within narrower limits (which must evidently be the temperament alluded to by the Committee) without bereaving the People of their Property so embarked.

This, the Governor can by no means think just, and even could he bring himself to propose such a thing, he does not believe that it could produce any other effect, than that of rendering him, in the eyes of his upright, just, and Royal Master, less worthy of the situation with which His Majesty has been graciously pleased to honor him, than His Majesty had before supposed.

19. The Governor has already informed the Board that the whole subject has been submitted to the consideration of His Majesty and his Ministers, and the decision has been communicated to the Board; Neither have any actual facts, nor any new lights deduced from actual facts, beyond what have been already submitted, been either stated by the Committee, or received from any other quarter, that could justify the Governor in requesting a reconsideration of that decision; more especially as the Committee, in their Report of the 20th

of June last, so unhesitatingly declare that they consider it "to be sufficiently liberal," and as the parties concerned (those of them meaning that have seen the Regulations) are gratefully satisfied therewith; so much so at least, that the Governor has heard of no instance where the parties would not infinitely rather pay the additional fees for the support of Government, than wait longer in ruinous uncertainty and suspense; If there should be any instances of that sort, the parties might certainly be left to their own option in that respect.

If the Board do not think proper to advise any other mode for making the Regulations more speedily and generally known to the Parties concerned, the Parties may probably content themselves with that mode which His Majesty has commanded, by having recourse to Public Records where His Majesty has graciously directed His Instructions to be entered for their information and satisfaction.

20. The 38th Article of His Majesty's General Instructions, requires in addition to any other notification by Proclamation or otherwise "that all In-

" structions

" structions from His Majesty relative to the passing
 " Grants of Lands in conformity to the Act passed in
 " the thirty first year of His Reign, be entered upon re-
 " cord for the Information and Satisfaction of all par-
 " ties whatever that may be concerned therein."

The Regulations received through His Majesty's Secretary of State in conformity to His Majesty's special Instruction of the 15th of August 1797, communicated to the Board on the 11th of June last, are certainly of the most essential concern, to the parties therein interested. It would therefore be disobedience in the extreme, were they not entered upon record for their Information and Satisfaction. Moreover, were the parties not to have free access to the records with regard to the Proceedings that might be from time to time had, in pursuance of His Majesty's Royal Instructions, their having free access to the Record of the Instructions considered by itself, could be of no possible use to them. His Majesty's gracious commands in that respect would in such case be rendered a mere nullity.

The Governor is exceedingly sorry at finding the opinions of the Committee so very different from

those entertained by himself: From the manner in which the Committee seem to consider things, it may not perhaps be improper to inform them that it is the Governor's duty to communicate to the Council certain parts of his Instructions, together with such of certain other parts as he may from time to time find convenient for His Majesty's Service to be imparted: Of this the Governor must be the judge: The Governor must be in this respect his own Interpreter of the Instructions he receives from His Royal Master: The Governor could not (as he has observed already) consider it to be consistent with his duty, to refer to the consideration of the Committee, whether it was proper that the Commands of His Royal Master should be obeyed: He referred only, for the consideration of the Committee, what might be the most ready and satisfactory steps to be taken, for rendering obedience to those commands: If the Committee, either by extending into matters which the Governor may not consider it consistent with his Duty to refer, or by taking Positions different from the actual facts, shall thereupon build advice which the Governor may not consider to be consistent with his duty to follow; And the Committee after being so informed, shall claim to have

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that advice entered upon public Record; the Governor can by no means consider himself blameable, if in any such instances they should become lessened in the public esteem; however sorry he may be (and sorry he really is) that it should so happen.

Whatever justification the Governor's conduct might in general receive, from its being founded on the advice of the Council; it could receive no degree of justification therefrom, in cases where, from the Governor's own knowledge of the actual state of Facts, he should find that advice to be founded on a mistake. It is the Governor's duty to examine, as far as he may be able, into the actual state of facts upon which the advice he receives may be founded: Were it his duty (as the Committee would seem to imply) to follow the advice of the Council without any consideration on his own part, the Governor would be merely a *Man of Straw*: This, he would wish the Committee to believe, is by no means the case.

The Governor cannot suppose it possible that the Committee could really believe, that the Statements made in the report now on the Table in support of the Position on which the report of the 20th of June last was founded, could contribute in any the smallest

degree towards supporting that Position : The Statements likewise made by the Committee, in regard to the number of Applicants comprehended in the returns of the Commissioners, in pursuance of the notification from the Council-Office of the 17th of January 1795; Their Statement of the quantity of ungranted Land on the South side of the River St. Lawrence, and many other parts of the report now on the Table, do not seem to tally so exactly with that attention and regard which the Committee are pleased to express for the honor and interest of His Majesty's Government, and that zeal they are pleased to express for the Credit of the Governor's administration, as might be wished. However justifiable such statements might from custom be considered, when made by professional Gentlemen in support of a bad cause between parties at Law, they do not seem to be altogether so, from a Committee of His Majesty's Conncl, whose duty it is to advise the Governor according to the best of their abilities, for the Interest and Honor of His Majesty's Government. If the Committee did not really know before-hand how the truth in those Cases actually stood, they had not the smallest occasion to mention them, as they did not

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felt disposed to say any thing thereon for the purpose
of giving the Governor real information, any one of
the Members might, in a very few minutes, have satisfied
himself so far, as to be sufficiently convinced that
those Statements were entirely erroneous.

The Committee complain that no Governor of this
Province had heretofore paid so little regard to the
advice of the Council, as was paid to the Report of
the Committee of the 20th of June last: This the Governor
conceives may be very true; But the Governor
believes it to be equally true, that no Council
ever before built their advice upon so great an Error,
in regard to actual Facts: These circumstances
therefore balance one another.

Any disesteem which the Committee may labour
under on that account, is yet retrievable; and the Governor
would willingly hope that it might be retrieved: It would be retrieved at once, by acknowledging
(what every body knows to be the truth) that the Re-
port of the 20th of June last was founded on a mis-
take; and by giving a cheerful assistance in carrying
His Majesty's gracious Regulations into execution.

It is infinitely more honorable in every station of Life to acknowledge an Error (all Men being at times liable thereto) than to endeavour to defend it : should the Governor at any time fall into a similar error, he would only desire the same means of retrieving it. If the Committee shall chuse to do this, all will yet be well ; But if on the contrary, they shall persist in endeavouring to support one error by running into another, the Governor will not consider himself blameable for any disesteem to which they may thereby be reduced ; nor will he in that case hold himself answerable that such Errors may not become exposed to the World.

(Signed)

R. P.

The Governor informs the Board that he received an Address from the Committee, containing a Complaint against Mr. Cary, acting Clerk of the Council, conformably to the Journal annexed to the Report. And that Mr. Cary had expressed his readiness to make an Apology on the occasion to the following effect. To Wit. " That the offensive parts of the

" Letter

" Letter complained of, were occasioned entirely by
 " the uncommon degree of trouble and difficulty that
 " was (unnecessarily as he conceived) thrown upon
 " him; which greatly interrupted the necessary busi-
 " ness then on hand for the Governor; and that he
 " (Mr. Cary) was sorry that the offensive parts were
 " inserted."

Under all the Circumstances of the case, the Governor is of Opinion that this Apology should be accepted as sufficient.

And the Governor would willingly hope that on a review of the whole business, all disagreements that have hitherto taken place may be done away, and Unanimity and Concord in future prevail, both between the Governor and the Council, and all others concerned.

(Signed)

R. P.

A true Extract,

(Signed)

THOMAS CARY,

A. C. Ex. C.

BOSTON,
JANUARY 11. 1776.

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33 23 f. he r. the

25 f. the r. in the

38 21 f. affertaining r. ascertaining

40 6 f. His Majesty's and Ministers r. His
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41 13 f. Axdom r. Axiom

42 16 f. upon Table r. upon the Table

43 21 f. litteral r. literal

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53 THE NOTES in Crotchets [] contained
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The 23d. and part of the 24th Lines should have
been in *Italics*, and within Crotchets ; thus [Present the
Chief Justice and seven other Members of the Council]

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